



Kirschstein Ottinger Israel & Schiffmiller  
489 Fifth Avenue  
New York NY 10017

In re Application of	:	
ROSENBERG, et al.	:	
Application No.: 10/502,079	:	DECISION ON PETITION
PCT No.: PCT/IB03/00513	:	
Int. Filing Date: 23 January 2003	:	UNDER 37 CFR 1.181
Priority Date: 23 January 2002	:	
Attorney Docket No.: P/63299	:	
For: HOLLOW WAVEGUIDE DIRECTIONAL	:	
COUPLER	:	

This decision is in response to applicant's correspondence filed 06 August 2008 in the United States Patent and Trademark Office (USPTO) which includes a copy of a petition to withdraw a holding of abandonment originally filed 15 June 2006. Both petitions are being treated pursuant to 37 CFR 1.181. No petition fee is required.

### **BACKGROUND**

On 23 January 2003, applicant filed international application PCT/IB03/00513, which claimed priority of an earlier application filed 23 January 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 21 July 2004. The deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 23 July 2004.

On 21 July 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia: the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a preliminary amendment and an Information Disclosure Statement.

On 16 November 2004, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide a signed oath or declaration of the inventor, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date and provide payment of the surcharge for providing an oath or declaration later than thirty months from the priority date. Applicant was afforded two months to file a proper response.

On 12 June 2006, applicant was mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) informing applicant that applicant had failed to respond to the Form PCT/DO/EO/905 mailed 16 November 2004 within the time period set therein and that above-identified application was abandoned as to the United States.

On 06 August 2008, applicant filed the present petition indicating that a petition to withdraw the holding of abandonment had been filed on 15 June 2006 arguing that a response to the Form PCT/DO/EO/905 had been filed on 13 January 2005.

### **DISCUSSION**

#### **I. Proof of filing of 15 June 2005**

The best evidence of what was actually received by the Office is a postcard receipt containing a specific itemization of all the items being submitted. See MPEP 503. Here, applicant has provided a copy of the date-stamped postcard receipt, as well as, a complete copy of the prior filing filed on 15 June 2005. The postcard identifies the application by serial number, title, applicant and attorney docket number. Among the items listed on the receipt is: "Request to Withdraw notice of Abandonment Under 37 C.F.R. §1.8(b) with supporting documents." The receipt is stamped "OIPE IAP65 Patent & Trademark Office JUN 15 2006." The postcard has not been annotated in any way to indicate that any of the listed items were not received. Thus, it is clear that applicant filed the petition under 37 CFR 1.181 on 15 June 2006.

#### **II. Petition to Withdraw Holding of Abandonment**

An examination of the petition finds that applicant has provided a copy of the date-stamped postcard receipt, as well as, a complete copy of the prior filing and certification that the copy currently provided is a true and complete copy of the papers filed on 13 January 2005. The postcard identifies the application by serial number, title, applicant and attorney docket number. Among the items listed on the receipt is: "Late Filing of Declaration, Signed Declaration." The receipt is stamped "OIPE JC56 Patent & Trademark Office JAN 13 2005." The postcard has not been annotated in any way to indicate that any of the listed items were not received. Thus, it is clear that applicant filed an executed declaration and power of attorney on 13 January 2005. In addition, a review of the fees records for this application show payment of the \$130.00 surcharge of 13 January 2005; thus, it is proper to grant applicant's petition to withdraw the holding of abandonment for failure to file a response.

### **CONCLUSION**

For the reasons detailed above, applicant's petition under 37 CFR 1.181 is **GRANTED**.

The Form PCT/DO/EO/909 mailed 12 June 2006 is hereby **VACATED**.

The application has an international filing date of 23 January 2003 under 35 U.S.C. 363 and will be given a date of **13 January 2005** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision, namely the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) and a filing receipt indicating the correct 371 date as detailed above.

A handwritten signature in black ink, appearing to read 'Derek A. Putonen', written in a cursive style.

Derek A. Putonen  
Attorney Advisor  
Office of PCT Legal Administration  
Tel: (571) 272-3294  
Fax: (571) 273-0459